



Matt Ochs

Partner

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Matt maintains national bankruptcy, natural resources, real estate, and opinion practices.

PRACTICES

Bankruptcy, Restructuring, and Creditors' Rights
Distressed Assets
Real Estate Development and Finance
Commercial and Industrial Finance

INDUSTRIES

Energy and Resources
Electric Power

EDUCATION

University of Denver, J.D., 1999
University of Denver Law Review
University of Arizona, B.A., 1995

BAR ADMISSIONS

Colorado
Arizona

COURT ADMISSIONS

U.S. District Court, District of Colorado
U.S. Tenth Circuit Court of Appeals
U.S. Supreme Court

Bankruptcy & Insolvency: Matt provides business-focused bankruptcy and insolvency advice to creditors, ranging from day-to-day counseling and transactional drafting to actively participating in and leading clients through complex bankruptcy cases and proceedings. He emphasizes energy and other extractive industries, including oil & gas (exploration & production/upstream and midstream sectors), mining (coal, gold, and silver), and renewable energy (wind, solar, and geothermal), and has developed a national profile from his work in these areas in cases filed throughout the U.S., including in Delaware, Texas, and Colorado, and across the firm's footprint. He clerked on the U.S. Bankruptcy Courts for the Districts of Colorado and Utah, and on the Colorado Court of Appeals. He also serves as Co-Chair of the ABA's Subcommittee on Business Bankruptcy Transactions.

Real Estate & Renewable Energy: Matt has a diverse real estate practice representing clients with interests across the U.S. He structures, negotiates, and closes deals for financial institutions, private lenders, equity funds, and borrowers, including lending and borrowing using construction, term, non-recourse term, revolving credit, and syndicated and single lender loans in single asset and multi-state/multi-asset real estate transactions. He also supports the firm's energy and infrastructure teams on a wide-range of real property issues and opinion requirements, with an emphasis on wind, solar, geothermal, and other power generation projects.

Opinions: Matt regularly provides substantive non-consolidation and debt financing opinions in real estate, commercial lending, and energy transactions.

Loan Workouts & Receivership: Matt leverages his real estate and bankruptcy experience to effectively lead clients through transactional loan workouts and restructuring, and distressed commercial and mixed-use projects. He negotiates and prepares loan modifications, forbearance agreements, deeds in lieu, and other transactional documents. He also seeks the appointment of receivers on behalf of lenders and has experience with foreclosure related litigation, including assisting loan servicers in various loan servicing disputes.

In-House Experience: Matt was formerly in-house counsel with a multinational software services company, emphasizing corporate matters,

contracts, licensing, and real estate leasing in the U.S. and Europe.

EXPERIENCE

Upstream and Midstream Bankruptcy

- Gathering/Transportation Services Agreements
- Dedication, Covenant, & Executory Contract Litigation
- Exploration & Production Issues
- FERC Regulated and Intrastate Pipeline Issues
- Well & Equipment Lien Issues

General Bankruptcy and Creditors' Rights

- Secured Unsecured Creditors
- Bankruptcy Mitigation Strategies
- Complex Bankruptcy Litigation

Power Generation

- Non-Consolidation Opinions
- Real Property/Title Issues

Distressed Loans & Special Assets

- Loan Modifications
- Loan Workouts
- Receiverships
- Foreclosures
- Quiet Title Actions

Real Estate Finance and Investment

- Construction and Term Loans
- Tenant-in-Common Loans
- Freddie Mac Loans
- Real Property/Title Issues
- Investor Due Diligence

Real Estate Opinion Practice

- Debt Financing Opinions
- Non-Consolidation Opinions

CLIENT RESULTS

Bankruptcy and Creditor's Rights

Active representation of clients in chapter 11 cases filed in Delaware, Texas, Colorado, Nevada, New Mexico, and Wyoming.

Lead and local counsel to producers, operators, and midstream oil and gas

companies in complex chapter 11 cases across the United States.

Lead and local counsel to international gold and other precious metals mining companies in chapter 11 cases across the United States, including reclamation claims and protection of joint venture interests.

Lead and local counsel to stalking horse purchasers and bidders in section 363 asset sales in chapter 11 cases in Colorado.

Ordinary course/regulatory counsel to coal mining and oil and gas companies as debtors in complex chapter 11 cases across the United States.

Defense of creditors in avoidance actions (preference, fraudulent transfer) in chapter 11 and 7 cases across the United States.

Defense of debtor in regulated industry in adversary proceeding with over 70 claims for relief against debtor and debtor's principals in Nevada.

Creditor counsel for private lender/purchaser of distressed real estate loan portfolios with interests in New Mexico, Colorado, and Wyoming.

Creditor counsel for nationally chartered bank in connection with real property collateral in chapter 7 and chapter 11 cases in New Mexico.

Creditor counsel for national farm equipment manufacturer, seller, and lessor in chapter 7, 11, and 12 bankruptcy cases in Colorado.

Co-lead counsel to liquidating trustee of international cycling and fitness company in the prosecution of preference and fraudulent transfer proceedings, and claims objections.

Loan Workouts, Receivership, and Foreclosure

Counsel for nationally chartered banks' special assets groups in connection with structuring and documenting loan modifications.

Counsel for appointment of receivers for commercial and resort properties in Colorado.

Counsel to national loan servicer in connection with foreclosure challenges and related litigation, and bankruptcy cases.

Representative Real Estate Transactions

Lender counsel for private trust in financing of 400+ acre horizontal construction in connection with residential development in Nevada.

Lender counsel for nationally chartered bank in connection with structuring and negotiating revolving and term loan credit facilities provided to national real estate development company for the financing of large-scale development projects.

Lender counsel for nationally chartered bank in connection with structuring and negotiating revolving and term loan credit facilities provided to national

real estate investment and management company for the initial financing of multifamily and retail projects.

Lender counsel for state chartered bank in connection with structuring and negotiating delayed draw, revolving, and term loan credit facilities for the acquisition, construction, and financing of state-wide retail and services locations.

Borrower counsel for private developer in connection with structuring and negotiating Freddie Mac refinancing of 300+ unit apartment complex in Nevada, including related debt financing opinions.

Borrower counsel for real estate investment and management company in connection with debt financing and non-consolidation opinions on Freddie Mac refinancing of 500+ unit apartment complex in Colorado.

Due diligence for international private equity fund with over \$1 billion in investments in mixed-use and multifamily projects in Colorado.

Local counsel to numerous borrowers in connection with issuance of debt financing and non-consolidation opinions in real estate and commercial transactions.

Local counsel to numerous lenders and borrowers in the construction and finance of mixed use, food service, hospitality, multifamily projects, and medical practices in Colorado, Nevada, and Arizona.

PUBLICATIONS

"Effectiveness of Contractual Receivership Clauses for Operating Companies," *ABA: Business Law Today*, September 2019

"The Sabine Decision and its Effect on Midstream Agreements," *ABA Section of Environment, Energy, and Resources, 48th Spring Conference, Denver, CO*, Co-Author, 03/28/2019

"Five Simple Rules for In-House Counsel to Avoid the Most Hidden Insolvency Risks in Commercial Transactions," *American Bar Association, Business Law Today*, Co-Author, January 2019

"Rejection of Gathering Agreements in Bankruptcy Affirmed by Second Circuit in *Sabine Oil & Gas*," *Holland & Hart News Update*, Co-Author, 06/04/2018

"Application of the Bankruptcy Automatic Stay to NEPA Challenges," *American Bar Association, Public Land and Resources Committee Newsletter*, Co-Author, February 2017

SPEAKING ENGAGEMENTS

"Oil & Gas Covenants that Run with the Land," *Energy & Mineral Law Foundation, 41st Annual Institute & Fall Symposium and Safety Seminar*, October 13, 2020

"Commercial Leasing in Colorado," *Colorado Bar Association CLE*,

01/16/2020

"Six Simple Rules for In-House Counsel to Avoid Most Hidden Insolvency Risks in Commercial Transactions," *ABA Business Law Section Annual Meeting, Panelist*, Austin, TX, September 2018

RECOGNITION

- *The Best Lawyers in America*®, Real Estate Law, 2021, 2022

PROFESSIONAL AND CIVIC AFFILIATIONS

- American Bar Association Subcommittee on Business Bankruptcy Transactions, Co-Chair
- American Bar Association Real Estate Financing Subcommittee, Member
- American Bar Association Committee on Legal Opinions in Real Estate Transactions, Member